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paragraphs (a) and (b), or paragraph (c) of this section are met:

(a) The grandchild or stepgrandchild was living with the employee before the grandchild or stepgrandchild attained age 18.

(b) The grandchild or stepgrandchild is living with the employee in the United States and receives at least one-half of his or her support from the employee for the year before the month in which—

(1) The employee could become entitled to an age and service or disability annuity under the Social Security Act (treating his or her railroad compensation as wages under that Act); or

(2) The employee dies; or

(3) The employee becomes entitled to a period of disability that lasts until he or she could become entitled to a social security benefit as described above or until he or she dies.

(c) In the case of a grandchild or stepgrandchild born within the one-year period referred to in paragraph (b) of this section, at the close of such period the child must have been living with and receiving at least one-half of his or her support from the employee for substantially all of the period that began on the date the grandchild or stepgrandchild was born. “Substantially all” is defined in § 222.53.

§ 222.57 When an equitably adopted child is dependent.

An employee’s equitably adopted child, as defined in § 222.34, is considered dependent upon the employee if the employee was either living with or contributing to the support of the child at the time of his or her death. If the equitable adoption is found to have occurred after the employee could have become entitled to an old age or disability benefit under the Social Security Act (treating his or her railroad compensation as wages under that Act), the child is not considered dependent on the employee during the employee’s lifetime. If the equitable adoption took place before such time, the child is dependent on the employee if the employee was living with or contributing to the support of the child at one of the times shown in § 222.51.

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§ 222.58 When a child is living with an employee.

A child is living with the employee if the child normally lives in the same household with the employee and the employee has parental control and authority over the child’s activities. The child is considered to be “living with” the employee while they are living apart if they expect to live together again after a temporary separation. A temporary separation may include the employee’s absence because of working away from home or hospitalization. However, the employee must have parental control and authority over the child during the period of temporary separation. A child who is in active military service or in prison is not “living with” the employee, since the employee does not have parental control over the child.

PART 225—PRIMARY INSURANCE AMOUNT DETERMINATIONS

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Subpart A—General

§ 225.1 Introduction.

This part discusses Primary Insurance Amount, which is referred to as PIA throughout this part, and which is an important element in the calculation of any retirement or survivor annuity. There are a number of PIA computations based on different periods, amounts, and types of earnings. However, the formulas for computing any PIA are prescribed in section 215 of the

Social Security Act and are described in detail in the regulations of the Social Security Administration (20 CFR part 404, subpart C). This part discusses PIA computation formulas and relates them to the PIA's which the Board uses. Descriptions of the majority of PIA's used in computing retirement or survivor annuities under the Railroad Retirement Act are contained in this part. Explanations are included of when delayed retirement credits and cost-of-living increases can be added to the PIA's used by the Board. This part also explains when and how a PIA is recomputed or adjusted. Since these regulations are intended to address annuities currently being awarded, certain PIA's, not used in the computation of annuities awarded after August 13, 1981, are not included in these regulations. Parts 226, 228 and 229 of this chapter explain how PIA's are used in actual annuity computations.

§ 225.2 Definitions.

As used in this part:

Average Indexed Monthly Earnings means the result of dividing the total of the indexed earnings through the indexing year and the nonindexed earnings after the indexing year in the benefit computation years by the number of months in the benefit computation years. The indexing year for the Average Indexed Monthly Earnings PIA is the second year before the employee's eligibility year. Indexing of an employee's yearly earnings serves to put the earnings in proportion to the earnings level of all workers for the corresponding years, and to express the earnings in terms of a more recent dollar value. Indexed earnings are determined under section 215(b)(1) of the Social Security Act. The Average Indexed Monthly Earnings formula PIA is based on the Average Indexed Monthly Earnings amount.

Average Monthly Earnings means the average determined by dividing the actual earnings used in computing the PIA by the total months in the benefit computation years. The Average Monthly Earnings is determined under section 215(b)(4) of the Social Security Act. The Average Monthly Earnings formula PIA is based on the Average Monthly Earnings amount.

Base Years means the years after 1950 (or 1936, if applicable) and up to the year in which the employee dies or is entitled to an annuity based on retirement or disability. When the employee's death occurs before he or she reaches retirement age as defined in section 216(I) of the Social Security Act, the Base Years include the year of the employee's death. Base Years are defined in sections 215(b)(2)(B)(ii) and 215(d) of the Social Security Act.

Benefit Computation Years means the years with the highest earnings used in computing the Average Indexed Monthly Earnings or Average Monthly Earnings. The number of Benefit Computation Years is determined in accordance with section 215(b)(2)(B)(i) of the Social Security Act and is based on the employee's age or when the employee becomes disabled or dies.

Compensation means railroad compensation which is the amount of creditable railroad earnings under the Railroad Retirement Act, as explained in part 211 of this chapter.

Earnings means compensation creditable under the Railroad Retirement Act (other than compensation attributable to years of service prior to 1937) or "wages" creditable under the Social Security Act or both.

Eligible means that a person meets the necessary requirements and could qualify for payment if a valid application were filed.

Eligibility Year means the earliest of: the employee's year of attainment of age 62; The year of disability onset; or the year of death. The Eligibility Year determines the formula used to compute a Primary Insurance Amount. Eligibility Year is defined in section 215(a) of the Social Security Act.

Employee means any person who is working or has worked for a railroad employer who is eligible for a retirement annuity or on whose account a survivor is eligible for a survivor annuity, as explained in part 216 of this chapter. For a detailed discussion of Employees under the Railroad Retirement Act, see part 203 of this chapter.

Entitled means that a person meets the necessary requirements, files a valid application and establishes his or her right to payment.

Indexed Earnings means the employee's yearly earnings for the years after 1950 that have been adjusted to put the earnings in proportion to the earnings level of all workers for each of those years and to express the earnings in terms of a more recent dollar amount.

Primary Insurance Amount (PIA) means the result obtained by applying one of three formulas in the Social Security Act to the employee's earnings as prescribed under that Act. A PIA can be based on the Average Indexed Monthly Earnings formula, the Average Monthly Earnings formula or, in the case of the Special Minimum PIA, on a special formula based on years of coverage. Averaging earnings and PIA formulas are prescribed in section 215 of the Social Security Act.

Social Security Act means the Social Security Act as amended from time to time, unless the Act as in effect on a particular date is specified.

Wages means creditable wages or self-employment under sections 209 or 211, respectively, of the Social Security Act.

Year of service means 12 months of railroad service credited in accordance with part 210 of this chapter.

Years of coverage means years after 1936 as defined in section 215(a)(1)(C)(ii) of the Social Security Act in which the employee had earnings over certain specified amounts. Years of Coverage is primarily a factor in determining the Special Minimum formula PIA amount.

§ 225.3 PIA computation formulas.

(a) *General.* PIA's are generally computed under one of two normal formulas determined by the employee's eligibility year. In addition, there is a special PIA formula, based on an employee's years of coverage, that is used when it produces a PIA that is higher than the PIA computed under the appropriate PIA formula. The two most common PIA formulas are the Average Indexed Monthly Earnings PIA formula and the Average Monthly Earnings PIA formula. The special PIA formula is called the Special Minimum PIA formula.

(b) *Average Indexed Monthly Earnings PIA formula.* When the employee's eligibility year is after 1978, the Tier I

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PIA, Overall Minimum PIA, Survivor Tier I PIA, Employee's Retirement Insurance Benefit PIA and Residual Lump-Sum PIA are computed under the Average Indexed Monthly Earnings PIA formula.

(c) *Average Monthly Earnings PIA formula.* The Average Monthly Earnings PIA formula is used to compute a PIA for one of two reasons: either the employee's eligibility year is before 1979 or the type of PIA requires that it always be computed under the Average Monthly Earnings PIA formula.

(1) *Use of Average Monthly Earnings PIA formula based on the employee's eligibility year.* The Average Monthly Earnings PIA formula is used in computing the Tier I PIA, the Overall Minimum PIA, the Employee Fictional Retirement Insurance Benefit PIA and the Residual Lump-Sum PIA when the employee's eligibility year is before 1979.

(2) *Types of PIA's always computed using the Average Monthly Earnings PIA formula.* The following PIA's used by the Board are determined under the Social Security Act as in effect on December 31, 1974, and are always computed using the Average Monthly Earnings PIA formula.

(i) Combined Earnings Dual Benefit PIA described in § 225.12.

(ii) Social Security Earnings Dual Benefit PIA described in § 225.13.

(iii) Railroad Earnings Dual Benefit PIA described in § 225.14.

(iv) Combined Earnings PIA described in § 225.23.

(v) Social Security Earnings PIA described in § 225.24.

(vi) Railroad Earnings PIA described in § 225.25.

(d) *Special Minimum PIA formula.* The Special Minimum PIA formula is based on the employee's years of coverage. The Special Minimum PIA formula usually applies when the employee had consistently low earnings during his or her working lifetime. The Special Minimum PIA formula is used when it is higher than the PIA calculated under the applicable Average Indexed Monthly Earnings formula or the Average Monthly Earnings formula.

§ 225.4 Limitation on amount of earnings used to compute a PIA.

Certain PIA's used by the Board are based on a combination of compensation and wages, while other PIA's used by the Board are based solely on either compensation or wages. For purposes of crediting earnings when computing any PIA, compensation is always treated as wages. Regardless of whether a PIA is based on a combination of compensation and wages or exclusively on either compensation or wages, the total earnings for each year used in computing a PIA cannot be higher than the maximum social security earnings creditable in that year under sections 209(a) and 211(b) of the Social Security Act. The various PIA's used by the Board are described in subparts B and C of this part.

Subpart B—PIA's Used in Computing Employee, Spouse and Divorced Spouse Annuities

§ 225.10 General.

This subpart contains information about the PIA's that can be used in computing most employee, spouse and divorced spouse annuities. The Tier I PIA is used in computing the tier I component of an employee, spouse or divorced spouse annuity. The Combined Earnings Dual Benefit PIA, Social Security Earnings Dual Benefit PIA and Railroad Earnings Dual Benefit PIA are used in computing an employee's vested dual benefit component and a corresponding tier II component offset when entitlement to a vested dual benefit exists. Retirement annuity computations are discussed in part 226 of this chapter. The Overall Minimum PIA is used in computing the overall minimum guaranty formula rate as discussed in part 229 of this chapter.

§ 225.11 Tier I PIA.

(a) *General.* The Tier I PIA is used in computing an employee, spouse or divorced spouse tier I amount. Except for the cases described in paragraphs (b) through (d) of this section, a Tier I PIA is determined under sections 215 and 223 of the Social Security Act. Railroad

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and Social Security earnings are included in the calculation of a Tier I PIA.

(b) *Employee attains age 60 and/or acquires 30 years of service after June 30, 1984.* When an employee is entitled to an age and service annuity before the month of attaining age 62, as explained in part 216 of this chapter, the following Railroad Retirement Act rules apply in addition to those in § 225.11(a) in computing the Tier I PIA.

(1) Four months before the first full month the employee is age 62, the Average Indexed Monthly Earnings is determined as if the employee's eligibility year were the year the annuity began.

(2) The benefit computation years used in computing the Tier I PIA are based on the date of the employee's actual attainment of age 62.

(3) The Tier I PIA is adjusted when the employee reaches age 62 to use the year in which the employee attains age 62 as the eligibility year.

(4) Cost-of-living increases and recomputations apply after the employee attains age 62.

(c) *Employee attains age 60 and acquires 30 years of service before July 1, 1984.* For purposes of determining the benefit computation years to be used in computing the Tier I PIA for an employee who is age 60 through 64, and who both has 30 years of service and attains age 60 prior to July 1, 1984, the employee is considered to be age 65 when the age and service annuity begins. For purposes of computing the Average Indexed Monthly Earnings, the eligibility year is the year the annuity begins or age 62, if earlier. Cost-of-living increases are paid from the year the annuity begins. Recomputations are paid after the employee actually attains age 62.

(d) *Disability annuity.* When an employee is entitled to a disability annuity, as explained in subpart B of part 216 of this chapter, the following Railroad Retirement Act rule applies in addition to those in § 225.11(a) in computing the Tier I PIA. The Tier I PIA is computed as if the employee were 62 years old on the date, as determined by the Board, of onset of disability, if the employee is under age 62 on that date.

§ 225.12 Combined Earnings Dual Benefit PIA.

(a) *General.* The Combined Earnings Dual Benefit PIA is used in computing the employee vested dual benefit when the employee meets certain eligibility requirements as described in part 216 of this chapter. The Combined Earnings Dual Benefit PIA is also used in computing the employee's tier II annuity component when the employee becomes entitled to a vested dual benefit. This PIA is determined under section 215 of the Social Security Act as in effect on December 31, 1974. Railroad and social security earnings after 1950 (or after 1936, if applicable) and through December 31, 1974, or the last year of railroad service before 1974 are included in the calculation of this PIA.

(b) *Employee insured on own wage record on December 31, 1974.* Railroad and social security earnings after 1950 (or after 1936, if a higher PIA would result) and through 1974 are used in computing the Combined Earnings Dual Benefit PIA if the employee—

(1) Had at least 25 years of railroad service before January 1, 1975; or

(2) Had at least 10 years of railroad service as of December 31, 1974, and worked in the railroad industry anytime during calendar year 1974; or

(3) Had at least 10 years of railroad service as of December 31, 1974, and had a current connection with the railroad industry (as described in part 216 of this chapter) on December 31, 1974, or when the employee annuity began.

(c) *Employee insured on own wage record in last year of railroad service.* Railroad and social security earnings after 1950 (or after 1936, if a higher PIA would result) and through December 31 of the year before 1974 in which the employee last worked in railroad service are used in computing the Combined Earnings Dual Benefit PIA if the employee—

(1) Had at least 10 but less than 25 years of railroad service through December 31, 1974; and

(2) Did not work in the railroad industry during 1974; and

(3) Did not have a current connection with the railroad industry (as described in part 216 of this chapter) on December 31, 1974, or when the employee annuity began.

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§ 225.13 Social Security Earnings Dual Benefit PIA.

(a) *General.* The Social Security Earnings Dual Benefit PIA is used in computing the employee vested dual benefit when the employee meets certain eligibility requirements as described in part 216 of this chapter. The Social Security Dual Benefit PIA is also used in computing the employee's tier II annuity component when the employee becomes entitled to a vested dual benefit. This PIA is determined under section 215 of the Social Security Act as in effect on December 31, 1974. Social security earnings after 1950 (or after 1936, if applicable) and through December 31, 1974, or the last year of railroad service before 1974 are included in the calculation of this PIA.

(b) *Employee insured on own wage record on December 31, 1974.* Social security earnings after 1950 (or after 1936, if a higher PIA would result) and through 1974 are used in computing the Social Security Earnings Dual Benefit PIA if the employee—

(1) Had at least 25 years of railroad service before January 1, 1975; or

(2) Had at least 10 years of railroad service as of December 31, 1974, and worked in the railroad industry anytime during calendar year 1974; or

(3) Had at least 10 years of railroad service as of December 31, 1974, and has a current connection with the railroad industry (as described in part 216 of this chapter) on December 31, 1974, or when the employee annuity began.

(c) *Employee insured on own wage record in last year of railroad service.* Social security earnings after 1950 (or after 1936, if a higher PIA would result) and through December 31 of the year before 1974 in which the employee last worked in the railroad industry are used in computing the Social Security Earnings Dual Benefit PIA if the employee—

(1) Had at least 10 but less than 25 years of railroad service through December 31, 1974; and

(2) Did not work in the railroad industry during 1974; and

(3) Did not have a current connection with the railroad industry (as described in part 216 of this chapter) on December 31, 1974, or when the employee annuity began.

§ 225.14 Railroad Earnings Dual Benefit PIA.

(a) *General.* The Railroad Earnings Dual Benefit PIA is used in computing the employee vested dual benefit when the employee meets certain eligibility requirements as described in part 216 of this chapter. The Railroad Earnings Dual Benefit PIA is also used in computing the employee's tier II annuity component when the employee becomes entitled to a vested dual benefit. This PIA is determined under section 215 of the Social Security Act as in effect on December 31, 1974. Railroad earnings after 1950 (or after 1936, if applicable) and through December 31, 1974, or the last year of railroad service before 1974 are included in the calculation of this PIA.

(b) *Employee insured on own wage record on December 31, 1974.* Railroad earnings after 1950 (or after 1936, if a higher PIA would result) and through 1974 are used in computing the Railroad Earnings Dual Benefit PIA if the employee—

(1) Had at least 25 years of railroad service before January 1, 1975; or

(2) Had at least 10 years of railroad service as of December 31, 1974, and worked in the railroad industry anytime during calendar year 1974; or

(3) Had at least 10 years of railroad service as of December 31, 1974, and had a current connection with the railroad industry (as described in part 216 of this chapter) on December 31, 1974, or when the employee annuity began.

(c) *Employee insured on own wage record in last year of railroad service.* Railroad earnings after 1950 (or after 1936, if a higher PIA would result) and through December 31 of the year before 1974 in which the employee last worked in railroad service are used in computing the Railroad Earnings Dual Benefit PIA if the employee—

(1) Had at least 10 but less than 25 years of railroad service through December 31, 1974; and

(2) Did not work in the railroad industry during 1974; and

(3) Did not have a current connection with the railroad industry (as described in part 216 of this chapter) on December 31, 1974, or when the employee annuity began.

§ 225.15 Overall Minimum PIA.

The Overall Minimum PIA is considered when the employee would be eligible for an old age insurance benefit or a disability insurance benefit under section 202 or 223 of the Social Security Act based on combined railroad and social security earnings. The Overall Minimum PIA is used in computing the social security overall minimum guaranty amount. The overall minimum guaranty rate annuity formula is discussed in part 229 of this chapter. The Overall Minimum PIA is determined under the rules in sections 215 and 223 of the Social Security Act. Railroad and social security earnings are included in the calculation of the Overall Minimum PIA. The Overall Minimum PIA is used to determine the amount which is treated as a social security benefit for the purpose of taxation pursuant to section 86(d) of the Internal Revenue Code of 1986.

Subpart C—PIA's Used in Computing Survivor Annuities and the Amount of the Residual Lump-Sum Payable

§ 225.20 General.

The Survivor Tier I PIA and the Employee RIB PIA are used in computing the tier I component of a survivor annuity. The Combined Earnings PIA, Social Security Earnings PIA and Railroad Earnings PIA may be used in computing a vested dual benefit offset in the survivor tier II component when the survivor tier II is based on a percentage of the employee annuity tier II. In addition, these three PIA's are identical to those dual benefit PIA's used in computing an employee retirement annuity, as described in subpart B of this part, when the employee died after being entitled to an annuity. Survivor annuity computations are discussed in part 228 of this chapter. The Residual Lump-Sum PIA (RLS PIA) is used in computing the amount of the residual lump-sum payable when retirement annuity payments were made, as explained in part 234 of this chapter.

§ 225.21 Survivor Tier I PIA.

The Survivor Tier I PIA is used in computing the tier I component of a

survivor annuity. This PIA is determined in accordance with section 215 of the Social Security Act using the deceased employee's combined railroad and social security earnings after 1950 (or after 1936 if a higher PIA would result) through the date of the employee's death.

§ 225.22 Employee RIB PIA used in survivor annuities.

The Employee Retirement Insurance Benefit PIA (Employee RIB PIA) is used to compute the employee RIB amount when the employee had received a retirement annuity which was reduced for early retirement. As explained in part 228 of this chapter, the employee RIB amount may be used in the survivor tier I component. This PIA is computed in accordance with section 215 of the Social Security Act using the deceased employee's combined railroad and social security earnings. The Employee RIB PIA is the same as the Survivor Tier I PIA when the employee had no earnings in the year of death. Earnings in the year of death are used in the recomputed PIA beginning January 1 of the year after the employee's death. (See subpart F of this part for a discussion of PIA recomputations.)

§ 225.23 Combined Earnings PIA used in survivor annuities.

The Combined Earnings PIA used in survivor annuities may be used in computing the tier II component when the survivor tier II is based on a percentage of the employee annuity tier II and the employee had been or would be, if he or she were still alive, entitled to a vested dual benefit. If the employee received a retirement annuity before death, this PIA is identical to the retirement Combined Earnings Dual Benefit PIA described in subpart B of this part. If a retirement annuity was not paid before the employee's death, the PIA is determined as if the employee were 65 years old in the month of his or her death. The Combined Earnings PIA used in survivor annuities is determined in accordance with section 215 of the Social Security Act as in effect on December 31, 1974. It is computed using the deceased employee's combined railroad and social security earnings after

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1950 (or after 1936 if a higher PIA would result) through December 31, 1974.

§ 225.24 SS Earnings PIA used in survivor annuities.

The Social Security Earnings PIA (SS Earnings PIA) used in survivor annuities may be used in computing the tier II component when the survivor tier II is based on a percentage of the employee annuity tier II and the employee had been or would be, if he or she were still alive, entitled to a vested dual benefit. If the employee received a retirement annuity before death, this PIA is identical to the retirement SS Earnings Dual Benefit PIA described in subpart B of this part. If a retirement annuity was not paid before the employee's death, the PIA is determined as if the employee were 65 years old in the month of his or her death. The SS Earnings PIA used in survivor annuities is determined in accordance with section 215 of the Social Security Act as in effect on December 31, 1974. It is computed using the deceased employee's social security earnings after 1950 (or after 1936, if a higher PIA would result) through December 31, 1974.

§ 225.25 RR Earnings PIA used in survivor annuities.

The Railroad Earnings PIA (RR Earnings PIA) used in survivor annuities may be used in computing the tier II component when the survivor tier II is based on a percentage of the employee annuity tier II and the employee had been or would be, if he or she were still alive, entitled to a vested dual benefit. If the employee received a retirement annuity before death, this PIA is identical to the retirement RR Earnings Dual Benefit PIA described in Subpart B of this part. If a retirement annuity was not paid before the employee's death, the PIA is determined as if the employee were 65 years old in the month of his or her death. The RR Earnings PIA used in survivor annuities is determined in accordance with section 215 of the Social Security Act as in effect on December 31, 1974. It is computed using the deceased employee's railroad earnings after 1950 (or after 1936, if a higher PIA would result) through December 31, 1974.

§ 225.26 Residual Lump-Sum PIA.

The Residual Lump-Sum PIA (RLS PIA) is used to compute the regular retirement annuity amounts to be deducted from the gross residual lump-sum amount in determining the amount of the residual lump-sum payable, as explained in Part 234 of this chapter. The RLS PIA is determined in accordance with section 215 of the Social Security Act using the employee's railroad compensation after 1950 (or after 1936, if a higher PIA would result) as if it were social security earnings. The RLS PIA is computed just like the retirement Tier I PIA described in Subpart B of this part, except that social security earnings are not used to compute the RLS PIA.

Subpart D—Delayed Retirement Credits

§ 225.30 General.

(a) A delayed retirement credit (DRC) is a percentage increase in a PIA. An employee who would have an insured status in accordance with section 214(a) of the Social Security Act based on combined railroad and social security earnings can earn DRC's. A DRC can be earned by the employee for each month, in or after the month of attaining age 65 and before the month of attaining age 70 (72 before 1984), in which the employee does not receive either—

(1) An annuity because the employee did not apply for an annuity; or

(2) The tier I and vested dual benefit work deduction annuity components or the social security overall minimum annuity rate because they are not paid since the employee works and has earnings in excess of the exempt amount. (The tier I and vested dual benefit work deduction annuity components, the social security overall minimum annuity rate and the exempt amount are described in parts 226, 229 and 230 of this chapter, respectively.)

(b) Any credit earned by the employee also extends to the employee's widow(er), remarried widow(er) or surviving divorced spouse when he or she receives a survivor annuity that is based on age or disability.

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(c) Credit earned by the employee does not extend to the employee's spouse or divorced spouse.

§ 225.31 PIA's to which DRC's are added.

(a) DRC's can be added to the following PIA's when used in computing the following benefits:

(1) Tier I PIA used in computing a retirement employee annuity.

(2) Overall Minimum PIA used in computing a retirement employee annuity.

(3) Survivor Tier I PIA used in computing a widow(er), remarried widow(er) or surviving divorced spouse annuity based on age or disability.

(4) Employee RIB PIA used in computing a widow(er), remarried widow(er) or surviving divorced spouse annuity based on age or disability.

(5) RLS PIA used in computing the amount of the residual lump-sum payable (as explained in part 234 of this chapter).

§ 225.32 DRC's and the Special Minimum PIA.

Delayed retirement credits cannot be added to the Special Minimum PIA. Delayed retirement credits can only be added to the regular PIA's used in computing the benefits outlined in § 225.31.

§ 225.33 Months for which DRC's are due.

(a) A DRC is due for each month after 1970 in which the employee is—

(1) Age 65 years old or older and under age 70 (72 before 1984); and

(2) Fully insured under section 214(a) of the Social Security Act based on combined railroad and social security earnings; and either—

(i) Is not entitled to an annuity because he or she did not apply for an annuity; or

(ii) Is entitled to an annuity but has the full amount of the tier I and vested dual benefit work deduction component (described in part 226 of this chapter) or the social security overall minimum rate (described in part 229 of this chapter) withheld because of earnings in excess of the exempt amount (as explained in part 230 of this chapter).

(b) The months for which credit is due need not be consecutive.

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§ 225.34 How the amount of the DRC is figured.

(a) The amount of the DRC depends on—

(1) The year the employee reaches age 65; and

(2) The number of months for which the credit is due, as explained in § 225.33.

(b) The percent given in paragraph (b)(1), (2), or (3) of this section is multiplied by the PIA; that product is then multiplied by the number of months for which credit is due and rounded to the next lowest multiple of \$0.10, if the answer is not already a multiple of \$0.10. The result is the DRC which is added to the PIA.

(1) *Employee attained age 65 before 1982.* The DRC equals one-twelfth of one percent of the PIA times the number of months after 1970 in which the employee is age 65 or older and for which credit is due.

(2) *Employee attains age 65 after 1981 and before 1990.* The DRC equals one-fourth of one percent of the PIA times the number of months in which the employee is age 65 or older and for which credit is due.

(3) *Employee attains age 65 in 1990 or later.* The rate of the DRC (one-fourth of one percent) is increased by one-twenty-fourth of one percent in each even year through 2008. Therefore, depending on when the employee attains age 65, the DRC percent will be as follows—

Year employee attains age 65	Delayed retirement credit percent
1990	7/24 of 1 percent.
1991	Do.
1992	1/3 of 1 percent.
1993	Do.
1994	3/8 of 1 percent.
1995	Do.
1996	5/12 of 1 percent.
1997	Do.
1998	11/24 of 1 percent.
1999	Do.
2000	1/2 of 1 percent.
2001	Do.
2002	13/24 of 1 percent.
2003	Do.
2004	7/12 of 1 percent.
2005	Do.
2006	5/8 of 1 percent.
2007	Do.
2008 and later	2/3 of 1 percent.

The delayed retirement credit equals the appropriate percent of the PIA

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times the number of months in which the employee is age 65 or older and for which credit is due.

(c) *Example:* Mr. Jones was qualified for a full age and service annuity when he reached age 65 in January 1985, but decided not to apply for an annuity because he was still working. Mr. Jones stopped working on December 31, 1985, and applied for his annuity to begin

January 1, 1986. Based on his earnings, his PIA was \$350.50. Since Mr. Jones did not receive an annuity for the 12 months from the month in which he became 65 (January 1985) until the month following the month he stopped working (January 1986), he is due credit for each of those 12 months. The total amount of his DRC's is calculated as follows:

Percent		PIA		No. of months		Unrounded result		Total amount of DRC's
.25%	X	350.50	X	12	=	10.51	=	\$10.50

Mr. Jones' PIA increase for DRC's is \$361.00 (350.50 + 10.50).

[54 FR 12903, Mar. 29, 1989; 54 FR 21203, May 17, 1989]

§ 225.35 When a PIA used in computing a retirement annuity can be increased for DRC's.

Delayed retirement credits earned at different times are added to the PIA used in computing a retirement annuity as follows:

DRC's earned for month in	Are added to PIA
Years before the year the employee annuity begins. Year the annuity begins	On the date the annuity begins. On January 1 of the year after the annuity begins.
Years after the annuity begins, and before the year the employee attains age 70 (72 before 1984). Year the employee attains age 70 (72 before 1984).	On January 1 of the year after the credits are earned. In the month age 70 (or 72) is attained.

§ 225.36 Effect of DRC's on survivor annuities.

(a) *Widow(er), remarried widow(er) or surviving divorced spouse.* Delayed retirement credits that the employee earned are used in computing the tier I component of a widow(er), remarried widow(er) or surviving divorced spouse annuity. All DRC's, including credits earned in the year of death, can be used in computing the widow(er) or surviving divorced spouse annuity beginning with the month of death. Delayed retirement credits for months up to, but not including, the month of death are used.

(b) *Other survivor annuities.* Delayed retirement credits cannot be used in computing any other survivor annuity

based on the deceased employee's record.

Subpart E—Cost-of-Living Increases

§ 225.40 General.

A cost-of-living increase is an automatic increase in a PIA provided under section 215(i) of the Social Security Act. The Social Security Administration determines the percentage amount of any cost-of-living increase paid by the Board.

§ 225.41 How a cost-of-living increase is determined and applied.

Depending on the condition of the social security trust funds, the increase can be based on rises in either the consumer price index as published by the Department of Labor or the average wage index which is the average of the annual total wages used for computing a PIA. The increase is payable when the appropriate index for the third calendar quarter of one year shows an increase of at least three percent over the same index for the third calendar quarter of the previous year (or the last calendar quarter within which a legislated general benefit increase became effective). No increase is payable for the calendar year that immediately follows a year in which a legislated general benefit increase was effective. The increase amount is determined by multiplying the PIA by the percentage increase in the appropriate quarter of a previous year.

§ 225.42**§ 225.42 Notice of the percentage amount of a cost-of-living increase.**

The percentage amount of the cost-of-living increase is published in the FEDERAL REGISTER by the Secretary of Health and Human Services within 45 days of the end of the measuring period used in finding the increase.

§ 225.43 PIA's subject to cost-of-living increases.

The Retirement Tier I, Overall Minimum, Survivor Tier I, Employee RIB and RLS PIA's are adjusted for cost-of-living increases. The remaining PIA's described in subparts B and C of this part are frozen at the amounts determined under the Social Security Act as in effect on December 31, 1974.

§ 225.44 When a cost-of-living increase is payable.

A cost-of-living increase is payable beginning with December of the year for which the increase is due. The increase is paid in the January payment.

Subpart F—Recomputing PIA's**§ 225.50 General.**

After an annuitant begins receiving an annuity, the PIA's may be recomputed as explained in § 225.52. Most recomputations result in an increase in the PIA. The Board pays a recomputed PIA when an increase of at least \$1 results. Most recomputations are processed automatically and require no action by the annuitant.

§ 225.51 PIA's that are subject to re-computation.

The following PIA's are subject to re-computation—

- (a) Tier I PIA;
- (b) Survivor Tier I PIA;
- (c) Overall Minimum PIA;
- (d) Employee RIB PIA; and
- (e) Residual Lump-Sum PIA.

§ 225.52 Reasons for recomputing a PIA.

There are three major reasons for recomputing a PIA:

- (a) Recomputation to consider additional earnings.
- (b) Recomputation when an employee is eligible for periodic pension pay-

ments based on other than railroad or social security earnings.

(c) Recomputation to use a new or different PIA formula, as provided in section 215(f) of the Social Security Act.

§ 225.53 Recomputation to consider additional earnings.

(a) *Additional earnings that cause a re-computation*—(1) *Earnings not included in earlier computation or re-computation.* The most common reason for recomputing a PIA is to include earnings that were not used previously, as described in paragraphs (a)(2) through (a)(4) of this section. The inclusion of these earnings may result in a revised Average Monthly Earnings or revised Average Indexed Monthly Earnings amount and, consequently, cause re-computation of the PIA.

(2) *Earnings in the year an employee becomes entitled to an age annuity or becomes disabled.* Earnings in the year an employee becomes entitled to an age annuity or becomes disabled are not used in the initial computation of the PIA. However, the Board does consider those earnings in a re-computation of the PIA and begins paying the higher benefits at the time described in paragraph (b) of this section.

(3) *Earnings not reported in time to use them in the computation of the PIA.* Because of the way reports of earnings are made, the earnings an employee has in the year before he or she becomes entitled to an annuity, becomes disabled, or dies, might not be reported in time to use them in computing the PIA. The Board recomputes the PIA with the new earnings information and begins paying annuitants the higher benefits based on the additional earnings at the time described in paragraph (b) of this section.

(4) *Earnings after entitlement that are used in a re-computation.* Earnings for a year after an employee becomes entitled to an annuity are used in a re-computation of a PIA when the earnings are higher than those for a year used in the previous PIA computation.

(b) *Effective date of re-computation to consider additional earnings.* A PIA that is recomputed to include additional earnings becomes payable at the latest of the following times:

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- (1) Date the annuity begins.
- (2) January of the year following the year an employee receiving an age annuity attains age 62.
- (3) January of the year following the year an employee becomes disabled.
- (4) January of the year following the year in which the earnings are earned.

Example: Mr. Jones, a railroad employee, becomes entitled to an age annuity in June 1986, at the age of 62. Although Mr. Jones has earnings of \$23,000 in the first five months of 1986, those earnings cannot be used in the initial computation of the Tier I PIA. However, effective with January 1, 1987, the Tier I PIA is recomputed to include the earnings for 1986.

§ 225.54 Recomputation when an employee is eligible for periodic pension payments based on other than railroad or social security earnings.

(a) *Description.* This recomputation serves as a reduction in the PIA for entitlement to a periodic pension based, in part or in whole, on earnings after 1956 not covered under either the Social Security Act or the Railroad Retirement Act. A recomputation for a periodic pension is made in accordance with sections 215(a)(7) and 215(f)(9) of the Social Security Act. A recomputation affecting the Retirement Tier I, Overall Minimum, or Residual Lump-Sum PIA is required when all the following conditions exist—

- (1) The employee has less than 30 years of coverage as defined in section 215(a) of the Social Security Act. The years of coverage include railroad and social security earnings;
- (2) The employee becomes eligible for an annuity after 1985; and
- (3) The employee becomes eligible for the periodic pension payments after 1985 based, in part or in whole, on earnings after 1956 not covered under either the Social Security Act or the Railroad Retirement Act.

(b) *Effective date of recomputation.* The Retirement Tier I, Overall Minimum or Residual Lump-Sum PIA is recomputed when the employee becomes eligible for a periodic pension payment based on other than railroad or social security earnings. However, payment of the recomputed PIA is effective with the month in which the employee becomes entitled to the periodic pension.

§ 225.55 Recomputation to use a new or different PIA formula.

(a) *Description—(1) New computation formula.* If a new formula for computing or recomputing PIA's is enacted into law and the annuitant is eligible for the recomputation, the Board will recompute the PIA under the new formula.

(2) *Recomputation under different formula.* In some cases, a PIA may be recomputed under a computation formula different from the formula used in the computation (or earlier recomputation) of the PIA. The annuitant must be eligible for a computation or recomputation under the different formula.

(b) *Effective date of recomputation—(1) New computation formula.* A PIA recomputed under a newly enacted formula is effective with the month as directed in the legislation that establishes the new formula. The new PIA formula applies when it produces a PIA that is higher than the amount on which the existing annuity is based.

(2) *Different computation formula.* A PIA recomputed under a different formula is effective with the first month that the different formula produces a PIA that is higher than the PIA on which the existing annuity is based.

§ 225.56 Automatic recomputation.

Periodically, the Board reviews the earnings record of every retired, disabled and recently deceased employee to see if a recomputation of the PIA is necessary. When a recomputation is called for due to a change in the reported railroad or social security earnings, the Board processes it automatically. Increased benefits resulting from a recomputation are paid from the earliest month that the recomputation is effective. The annuitant does not have to request a recomputation to consider additional earnings, although the annuitant may request a recomputation before the automatic recomputation is processed. However, the effective date of the recomputation is the same, whether the recomputation is done automatically or at the request of the annuitant.

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§ 225.57 Requesting a recomputation.

An annuitant who meets the conditions for a recomputation may request that his or her PIA be recomputed sooner than it would be recomputed automatically. Providing inclusion of the additional earnings increases the PIA, the Board will recompute the PIA from the earliest permissible date as described in this part.

§ 225.58 Waiver of recomputation.

If the employee or the employee's family are disadvantaged in any way by a recomputation of a PIA to consider additional earnings, a request can be made to waive or give up the right to the recomputation. Such a request must be in writing and be made by every entitled family member. A request for waiver of a recomputation applies only to that recomputation for which the request is made.

Subpart G—Adjusting PIA's

§ 225.60 Adjustment at age 62 when employee is entitled to an annuity based on 30 years of railroad service.

(a) *Description.* The Tier I PIA of an employee who is entitled to an age annuity based on 30 years of railroad service is adjusted when the employee reaches age 62. The Average Indexed Monthly Earnings on which the PIA is based is adjusted by using the year in which the employee attains age 62 as the eligibility year. This adjustment applies to any employee who attained age 60 or acquired 30 years of railroad service after June 30, 1984. The adjustment affects the tier I of the employee and spouse annuity.

(b) *Effective date of adjustment.* A PIA adjustment based on the employee's attainment of age 62 is effective with the first full month in which the employee is age 62. For purposes of a spouse age annuity tier I, the adjusted PIA is used beginning with the first full month both the employee and spouse are age 62.

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